

CPA/17/3 K OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of	Confirmation No.: 6064		
SCHADE et al.) Art Unit: 1713		
Serial No. 08/325,219	Examiner: ZALUKAEVA		
Filing or 371(c) Date: October 21, 1994))		
For: THE USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN COMPOUNDS WITH ISOLATED C-C MULTIPLE BONDS AS THICKENERS OR DISPERSANTS			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on			
	Signature: 23ers		

Honorable Commissioner for Patents Alexandria, Virginia 22313-1450

STATUS INQUIRY

Applicants request a status report on the above-identified application. Applicants filed a Petition to Withdraw the Holding of Abandonment on June 18, 2002 (copy enclosed with postcard receipt). Applicants continue to await a response thereto.

Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account No. 14.1437. Please credit any excess fees to such account.

Respectfully submitted,

NOVAK DRUCE DeLUCA & QUIGG LLP

Jason D. Voight

Reg. No. 42,205

Customer No. 26474 1300 Eye Street, N.W. Suite 400 East Washington, D.C. 20005 (202) 659-0100



June 12, 2002

SCHADE et al. S.N. 325,219

Received: petition to withdraw abandonment copy of continuation transmittal copy of preliminary submission



BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION

OF:

SCHADE ET AL.

CONFIRMATION No.:

6064

SERIAL NO.

08/325,219

GROUP ART UNIT:

1713

FILED:

OCTOBER 21, 1994

EXAMINER:

TATYANA ZALUKAEVA

For:

THE USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN COMPOUNDS WITH ISOLATED C-C MULTIPLE BONDS AS THICKENERS

OR DISPERSANTS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231, on:

Date of Deposit

June 12, 2002 Herbert B. Keil

Person Making Depo

Signature Deposit

Date of Signature

June 12, 2002

Honorable Commissioner of Patents and Trademarks Washington, D.C. 20231

PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT

Sir:

Applicants hereby petition to the Honorable Commissioner to withdraw the holding of abandonment indicated in the Notification dated May 31, 2002 (marked as Paper No. 23).

STATEMENT OF MATERIAL FACTS:

- 1. On March 20, 2002 (*indicated date of Mailing*), the Board of Patent Appeals and Interferences issued a decision sustaining the appealed rejection.
- 2. On May 20, 2002, applicants filed a continuation application under 37 C.F.R. §1.53(d) (copy of Form PTO/SB/29 enclosed), along with a preliminary submission including a preliminary amendment of the claims (marked as Paper No. 23; copy enclosed).
- 3. In a Notification dated May 31, 2002, the Examiner indicated that the application is abandoned because the period for seeking court review of the Board's decision had expired and because there were no allowed claims.

MEMORANDUM

37 C.F.R. §1.53(d) provides that a continuation application may be filed before termination of proceedings on a prior application, "before" meaning in this context "not later than" (ie. MPEP §711.02(c)).

In light of the Boards decision of March 20, 2002, the proceedings in the prior application were terminated on the date on which the time for an appeal to the court or review by civil action expired, ie. <u>May 20, 2002</u>, (ie. 37 C.F.R. §1.197(c) and §1.304). Accordingly, applicants' continuation application was timely submitted. A holding that application Serial No. 08/325,219 was abandoned is, therefore, not deemed appropriate.

CONCLUSION

Applicants therefore respectfully request that the holding of abandonment dated May 31, 2002, be withdrawn and that the application be returned to the Examiner for entry and full consideration of applicants' continuation application. Favorable action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

KEIL & WEINKAUF

Herbert B. Keil Reg. No. 18,967

1350 Connecticut Ave, N.W. Washington, D.C. 20036 (202) 659–0100

Encl.: copy of Form PTO/SB/29

copy of CPA Preliminary Submission/Amendment

HBK/BAS

PTO/SB/29 (10-00)

Approv use through 10/31/2002. OMB 0651-0032

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CONTINUED PROSECUTION	APPLICATION	(CPA)			
REQUEST TRANSMITTAL Submit an original, and a duplicate for fee processing. Only for Continuation or Divisional applications under 37 CFR 1.53(d)) CHECK BOX, if applicable: DUPLICATE					
Address to:	Attorney Docket No. of Prior Application	0050/43168			
Assistant Commissioner for Patents Box CPA Washington, DC 20231	First Named Inventor	SCHADE et al.			
	Examiner Name	Wu			
	Group Art Unit	1713			
	Express Mail Label No.				
This is a request for a Continuation or divise (continued prosecution application (CPA)) of prior application (Included the continued of the continuation of the conti	on number/	325,219			
NOTES	and the state of t	A CONTRACTOR OF THE CONTRACTOR			
FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000). C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b). EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned. ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket. 35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request. 37 CFR 1.78(a).					
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
2. X A preliminary amendment is enclosed. Enter the unentered amendment previously filed on					
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4). a. DELETE the following inventor(s) named in the prior nonprovisional application:					
	h The inventor(s) to be deleted are set forth on a separate sheet attached herete				
	The state of the s				
5. Information Disclosure Statement (IDS) is enclosed:					
a. 🔲 PTO-1449					
b. Copies of IDS Citations					

PTO/SB/29 (10-00)
Approved for use through 10/31/2002. OMB 0551-0032
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

. . .

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS	
Carried State State State Control	OTAL CLAIMS 7 CFR 1.16(c) or (j))	7 -20* =		x \$	_= \$	
	IDEPENDENT CLAIMS 7 CFR 1.16(b) or (i))	2 -3** =		x \$	=	
м	_=					
	BASIC FEE (37 CFR 1.16)					
	Total of above Calculations =					
Re	eduction by 50% for filing b	by small entity (Note 37	CFR 1.27).			
	* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent. TOTAL = 740.00					
6. Small entity status: Applicant claims small entity status. See 37 CFR 1.27. 7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 11 - 0345 ANY: DEFICIENCY IN FEES a. Fees required under 37 CFR 1.16. b. Fees required under 37 CFR 1.17. c. Fees required under 37 CFR 1.18. 8. A check in the amount of \$ 740.00 is enclosed. 9. Payment by credit card. Form PTO-2038 is attached. 10. Applicant requests suspension of action under 37 CFR 1.103(b) for a period of months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed. 11. New Attorney Docket Number, if desired [Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.] 12. a. Receipt For Facsimile Transmitted CPA (PTO/SB/29A) b. Return Receipt Postcard (Should be specifically itemized, See MPEP 503)						
	The prior application's			to this CPA		
	NOTE: The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.					
	14. NEW CORRESPONDENCE ADDRESS					
Customer Number or Bar Code Label 26474 (Insert Customer Name Code Label Par Code label here)						
KEIL & WEINKAUF						
1350 Connecticut Avenue, N.W.						
Washington, D.C. 20036						
City		State		Zip Code		
Country	USA	Telephone	(202)659-0100) Fax	202) 659-0105	

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED		
Name (Print /Type)	Herbert B. Keil	
Signature	I WSK oil	
Registration No. (Attorney/Agent)	18,967	
Date	May 20, 2002	

In the United States Patent and Trademark Office

IN RE C. P. APPLICATION

Box:

CPA

OF:

SCHADE ET AL.

CONFIRMATION No.:

-/-

SERIAL No. 08/325,219

GROUP ART UNIT:

1713

FILED:

OCTOBER 21, 1994

EXAMINER:

David W. Wu

For:

THE USE OF COPOLYMERS OF CARBOXYLIC ACIDS AND LONG CHAIN COMPOUNDS WITH ISOLATED C-C MULTIPLE BONDS AS

THICKENERS OR DISPERSANTS

Honorable Commissioner of Patents and Trademarks Washington, D.C. 20231

CONTINUED PROSECUTION APPLICATION

PRELIMINARY SUBMISSION

Sir:

This is a Continued Prosecution application pursuant to 37 C.F.R. \$1.53(d), of application Serial No. 08/325,219, filed on October 21, 1994, which is filed in reply to the Decision of the Board of Patent Appeals and Interferences dated March 20, 2002. For further prosecution, kindly enter and consider the following preliminary amendment and remarks:

PRELIMINARY AMENDMENT

IN THE SPECIFICATION:

Amend the specification as set forth in Appendix I attached to this paper. A marked up version indicating the changes made in the respective paragraphs of the specification is found in Appendix II.

IN THE CLAIMS:

Amend the claims as indicated in Appendix III attached to this paper. A clean copy of the claims as herewith amended is found in the attached Appendix IV.

PRELIMINARY REMARKS

Claims 10 to 15 and 17 as set forth in Appendix IV of this paper are now pending in this case. Claims 10, 13, 15 and 17 have been amended as indicated in Appendix III of this paper. The specification has been amended to set forth the continuing data of the application (ie. Appendix I and Appendix II of this paper). No new matter has been added.

Applicants have amended Claims 10, 13, 15 and 17 to further specify the nature of the long-chain compounds which constitute component (B) of the copolymer utilized in applicants' composition as a thickener or dispersant. Accordingly, the constituent (B) of the copolymer is now specified as one or more compounds selected from the groups of

- (1) mono- or polyunsaturated C_8 - C_{30} -monocarboxylic acids which may have additional hydroxyl groups, as well as their alkali metal and alkaline earth metal salts, alkyl esters, amides, sorbitan esters, glycerol esters or polyglycerol esters,
- (2) mono- or polyunsaturated aliphatic C_8-C_{30} -amines, and
- (3) mono- or polyunsaturated C_8-C_{30} -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids,

(ie. Claim 10). In light of the respective amendment, the copolymers of applicants' invention no longer fall within the generic realm of the copolymers taught by George (EP 047 009) which require a combination of

- from 65 to 90% by weight of acrylic acid monomers, and
- from 10 to 35% by weight of an α -olefin having 6 to 18 carbon atoms, styrene or a substituted styrene,

(ie. page 2, indicated lines 19 to 26, of EP 047 009). The disclosure of George provides nothing which would suggest or imply the modifications of the copolymers which are necessary to arrive at the copolymer of applicants' invention. The referenced prior art teaching therefore fails to render the subject matter of applicants' claims prima facie obvious. Favorable action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit

Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

KEIL & WEINKAUF

Herbert B. Keil

Reg. No. 18,967

1350 Connecticut Ave, N.W. Washington, D.C. 20036 (202) 659-0100

Encl.: THE SUBSTITUTE SECTION(S) OF THE SPECIFICATION (Appendix I)

THE CHANGE(S) IN THE SPECIFICATION (Appendix II)

THE CHANGES IN THE CLAIMS (Appendix III)

THE AMENDED CLAIMS (Appendix IV)

HBK/BAS

APPENDIX I:

THE SUBSTITUTE SECTION(S) OF THE SPECIFICATION:

On page 1:

• After the title and prior to the first paragraph, ie. at indicated line 5, insert the following:

CROSS-REFERENCE TO RELATED APPLICATIONS

This is a Continued Prosecution Application of U.S. Application Serial No. 08/325,219, which was filed on October 21, 1994.

APPENDIX II:

THE CHANGE(S) IN THE SPECIFICATION:

On page 1:

• After the title and prior to the first paragraph, ie. at indicated line 5, the following new paragraph has been added:

CROSS-REFERENCE TO RELATED APPLICATIONS

This is a Continued Prosecution Application of U.S. Application Serial No. 08/325,219, which was filed on October 21, 1994.

APPENDIX III:

THE CHANGES IN THE CLAIMS:

Amend Claim 10 as indicated in the following:

- 10. (trice amended) A cosmetic or pharmaceutical composition, containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of
 - A) 50 99.9% by weight of an olefinically unsaturated C_3 - C_5 -monocarboxylic acid, of an olefinically unsaturated C_4 - C_8 -dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
 - B) 0.1 50% by weight of one or more long-chain compounds with isolated C-C muliple bonds selected from the group consisting of
 - (1) mono- or polyunsaturated C_8-C_{30} -monocarboxylic acids which may have additional hydroxyl groups, as well as their alkali metal and alkaline earth metal salts, alkyl esters, amides, sorbitan esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C_8-C_{30} -amines, and
 - (3) mono- or polyunsaturated C_8-C_{30} -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids,

[(4) C₁₀ -C₂₃-alkyl vinyl ethers, and]

[(5) terminal or internal C₁₆-C₃₀-alkenes,]

- C) 0 49.9% by weight of other copolymerizable monomers and
- D) 0 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

Amend Claim 13 as indicated in the following:

- 13. (twice amended) A composition as defined in claim 10, wherein the copolymers have been prepared using as component B one or more long-chain compounds with isolated double bonds selected from the group consisting of
 - (1) mono- to tetraunsaturated C_{14} - C_{24} -monocarboxylic acids, as well as their alkali metal and alkaline earth metal salts, C_1 - C_4 -alkyl esters, glycerol esters or polyglycerol esters,

- (2) mono- to tetraunsaturated aliphatic primary $C_{14}-C_{24}-amines$, and
- (3) mono- to tetraunsaturated primary $C_{14}-C_{24}$ -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids.[7]

[(4) C₁₀-C₂₃-alkyl vinyl ethers, and]

[(5) terminal C16-C24-alkenes.]

Amend Claim 15 as indicated in the following:

- 15. (trice amended) A copolymer obtained by free-radical polymerization of
 - A) 50 99.9% by weight of an olefinically unsaturated C_3 - C_5 -monocarboxylic acid, of an olefinically unsaturated C_4 - C_8 -dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
 - B) 0.1 50% by weight of one or more long-chain compounds with isolated C-C muliple bonds selected from the group consisting of
 - (1) mono- to tetraunsaturated C_{14} - C_{30} -monocarboxylic acids as well as their alkali metal and alkaline earth metal salts, C_1 - C_4 -alkyl esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C_8 - C_{30} -amines, and
 - (3) mono- or polyunsaturated C_8-C_{30} -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids,

[(4) C₁₀-C₂₅-alkyl-vinyl-ethers_r]

- C) 0 49.9% by weight of other copolymerizable monomers and
- D) 0 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

Amend Claim 17 as indicated in the following:

- 17. (amended) A cosmetic or pharmaceutical composition as defined in claim 10 and containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of
 - A) 50 99.9% by weight of an olefinically unsaturated C_3 - C_5 -monocarboxylic acid;
 - B) 0.1 50% by weight of one or more long-chain compounds with isolated C-C muliple bonds from the group comprising

- (1) mono- or polyunsaturated C_8-C_{30} -monocarboxylic acids,
- (2) mono- or polyunsaturated aliphatic C_8-C_{30} -amines, and
- (3) mono- or polyunsaturated C_8-C_{30} -alcohols,
- [(4) C₁₀-C₂₅-alkyl vinyl ethers, and]
- [(5) terminal or internal C₁₆-C₃₀-alkenes,]
- C) 0 49.9% by weight of other copolymerizable monomers, and
- D) 0 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.

APPENDIX IV:

THE AMENDED CLAIMS:

- 10. (trice amended) A cosmetic or pharmaceutical composition, containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of
 - A) 50 99.9% by weight of an olefinically unsaturated C_3-C_5 -monocarboxylic acid, of an olefinically unsaturated C_4-C_8 -dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
 - B) 0.1 50% by weight of one or more long-chain compounds with isolated C-C muliple bonds selected from the group consisting of
 - (1) mono- or polyunsaturated C_8 - C_{30} -monocarboxylic acids which may have additional hydroxyl groups, as well as their alkali metal and alkaline earth metal salts, alkyl esters, amides, sorbitan esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C_8-C_{30} -amines, and
 - (3) mono- or polyunsaturated C_8-C_{30} -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids,
 - C) 0 49.9% by weight of other copolymerizable monomers and
 - D) 0 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.
- 11. (amended) A composition as defined in claim 10, wherrein the copolymers are obtained by free-radical polymerization of
 - A) 75 99.45% by weight of carboxylic acid component A,
 - B) 0.5 24.95% by weight of the long-chain compounds with isolated C-C multiple bonds B,
 - C) 0 24.45% by weight of other copolymerizable monomers and
 - D) 0.05 5% by weight of crosslinker component D.
- 12. (amended) A composition as defined in claim 10, wherein the copolymers have been prepared using acrylic acid, methacrylic acid or maleic anhydride as component A.
- 13. (twice amended) A composition as defined in claim 10, wherein the copolymers have been prepared using as component B one or more

long-chain compounds with isolated double bonds selected from the group consisting of

- (1) mono- to tetraunsaturated C_{14} - C_{24} -monocarboxylic acids, as well as their alkali metal and alkaline earth metal salts, C_1 - C_4 -alkyl esters, glycerol esters or polyglycerol esters,
- (2) mono- to tetraunsaturated aliphatic primary $C_{14}-C_{24}-amines$, and
- (3) mono- to tetraunsaturated primary $C_{14}-C_{24}$ -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids.
- 14. (amended) A composition as defined in claim 10, wherein the copolymers are used which have been prepared using as component D allyl ethers of pentaerythriol, trimethylolpropane or sucrose with at least two allyl ether unita in the molecule as well as allylether methacrylate, oleyl (meth)acrylate or methylenebisacrylamide.
- 15. (trice amended) A copolymer obtained by free-radical polymerization of
 - A) 50 99.9% by weight of an olefinically unsaturated C_3 - C_5 -monocarboxylic acid, of an olefinically unsaturated C_4 - C_8 -dicarboxylic acid or of its anhydride or a mixture of such carboxylic acids or anhydrides with
 - B) 0.1 50% by weight of one or more long-chain compounds with isolated C-C muliple bonds selected from the group consisting of
 - (1) mono- to tetraunsaturated C_{14} - C_{30} -monocarboxylic acids as well as their alkali metal and alkaline earth metal salts, C_1 - C_4 -alkyl esters, glycerol esters or polyglycerol esters,
 - (2) mono- or polyunsaturated aliphatic C_8-C_{30} -amines, and
 - (3) mono- or polyunsaturated C_8-C_{30} -alcohols as well as their esters with saturated C_1-C_4 -monocarboxylic acids,
 - C) 0 49.9% by weight of other copolymerizable monomers and
 - D) 0 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.
- 17. (amended) A cosmetic or pharmaceutical composition as defined in claim 10 and containing as a thickener or dispersant an effective amount of a copolymer obtained by free radical polymerization of

- A) 50 99.9% by weight of an olefinically unsaturated C_3-C_5 -monocarboxylic acid;
- B) 0.1 50% by weight of one or more long-chain compounds with isolated C-C muliple bonds from the group comprising
 - (1) mono- or polyunsaturated C_8-C_{30} -monocarboxylic acids,
 - (2) mono- or polyunsaturated aliphatic C_8-C_{30} -amines, and
 - (3) mono- or polyunsaturated C_8-C_{30} -alcohols,
- C) 0 49.9% by weight of other copolymerizable monomers, and
- D) 0 10% by weight of one or more compounds with at least two olefinically unsaturated groups in the molecule as crosslinkers.